

NEWS NOTES

OF THE CENTRAL COMMITTEE FOR CONSCIENTIOUS OBJECTORS

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Philadelphia, Pa.

SUPREME COURT AFFIRMS GARA CONVICTION

NON-REGISTRANTS REARRESTED

The Department of Justice has put its approval on a process very near double jeopardy with the rearrest of three non-registrants. Stephen Simon, Earlham College student, has been arrested and released on \$5,000 bond, but no further activity is expected in his case until late next spring.

Donald Mott and Roy Knight will be arraigned in Sioux City, Iowa, January 4th, on charges of failure to fill out the questionnaire, failure to report for physical examination and failure to report for induction. They could be sentenced to 15 years in prison and fined \$30,000 if given the maximum penalty on each of these counts.

Word has also been received that we may expect soon to hear of other rearrests of non-registrants in both Iowa and Indiana.

Although technically the government is not charging these men with the same crimes as they were previously charged, actually the new "crimes" are a continuing portion of the first—refusal to give any cooperation to the Selective Service Act.

Senator Guy M. Gillette (Dem., Iowa) in a statement widely reported in the press called the second prosecu-

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CALEB FOOTE RESIGNS

Caleb Foote, executive secretary of the CCCO since the formation of the committee in 1948, resigned November 1st in order to devote full time to his law studies at the University of Pennsylvania.

Lyle Tatum, formerly superintendent of Quakerdale Farm at New Providence, Iowa, has been selected to fill the vacancy. Lyle is a graduate of Iowa State College and the Federal Correctional Institution at Sandstone, Minnesota. He has served as prison visitor for the Iowa Yearly Meetings of Friends, been active in the Iowa Committee for Conscientious Objectors, and been in close touch with the problems of C. O.'s for the last few years.

Lessense Dilligard will continue to serve in the CCCO office.

4-4 DECISION CLIMAXES LONG COURT BATTLE

The United States Supreme Court voted 4-4 to affirm the Larry Gara conviction in a decision announced October 23rd. A tie vote affirms the decision of the lower court, and no voting record or opinion of the justices is reported. Justice Clark did not participate in the Gara appeal decision, because he served as Attorney-General at the time of the original Gara conviction.

As the NEWS NOTES goes to press Gara's attorneys are making an application for rehearing by the Supreme Court, but the decision will be reconsidered only if one of the justices has changed his mind.

The decision of the court is academic as far as Gara serving time in prison is concerned. Gara has already been imprisoned and is now free on parole. His time will be completed December 5, 1950.

Gara's "Crime"

Larry Gara was sentenced to 18 months in prison, because he was found guilty under an indictment charging that he "knowingly counseled, aided and abetted one Charles Ray Rickert to refuse or evade registration as required by the Selective Service Act of 1948".

Larry Gara, a history teacher at Bluffton (Ohio) College and a member of the Society of Friends, did not know "one Charles Ray Rickert" on September 10th, the date Rickert was supposed to register. Gara went to Bluffton September 20th and soon got acquainted with Rickert. When Rickert was arrested Gara was on hand and told him, "Stick to your principles. Don't let them coerce you into changing your mind".

Gara had also written letters of protest about other non-registrant arrests and made a speech said to advocate non-registration which further incensed the district attorney.

Boston Herald Editorial

An editorial in the Boston Herald for October 28th summed up the feelings of many concerned with the outcome of this case when, in commenting on the Supreme Court decision, it stated, "But it is not an altogether pleasing outcome from any point of view. Congress has the undoubted right to raise armies and to provide through appropriate legislation against acts of individ-

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NEW THREAT OF MILITARY DOMINATION

C. O. RESERVISTS

A number of men in the reserve corps of the armed forces have become pacifists since the last war and now present unique conscientious objector problems. Most men who were aware of their status as members of the reserve and became pacifists soon after the conclusion of World War II hostilities were able to resign from the reserve corps. However, all branches of the armed forces have instituted a general policy of no resignations since the Korean hostilities began.

Reservists refusing to report for duty when called will be subject to court martial by the armed forces. No cases have reached the court martial stage to date, but at least one man has failed to report for duty and may be arrested at any time.

The CCCO has received letters of inquiry and requests for aid from men from several states and all four reserve groups, army, navy, marine, and air force. Most of the men involved are commissioned officers.

THE OBJECTOR, a news sheet published by the Central Board for Conscientious Objectors of London, reports that the same problem has arisen in England.

DOCTORS' DRAFT

The doctors' draft is underway with registration started. Persons with problems in relation to this phase of selective service or those wishing to have complete information to keep with the booklet CONSCIENTIOUS OBJECTORS UNDER SELECTIVE SERVICE should write the CCCO office for the special doctors' draft release.

NON-REGISTRANTS

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tion of Knight and Mott "unjust and unreasonable". It is hoped that the interest of others in official positions can be enlisted to aid in working out some policy with government officials which will stop all second prosecution cases. Letters requesting a halt to second prosecutions should be sent to Attorney-General J. Howard McGrath.

If the policy is established that men must cooperate or face new charges of selective service violation upon completion of their sentences they will be in prison or on parole most of the time from their 18th birthday through their 26th birthday, and longer if the draft age is extended. The time not in prison will be a period of confusion awaiting arrest, trial, or other steps of the continuous prosecution. This will apply not only to non-registrants but also to men who are conscientiously unable to accept I-A or I-AO classifications given them by appeal boards.

It is hoped that through the Department of Justice or Selective Service a new governmental policy eliminating second prosecutions can be worked out. However, if we fail in obtaining this, the CCCO plans to make a vigorous court defense in the hopes of establishing a legal precedent ruling out second prosecutions.

Universal Military Service

Military service for every youth as he finishes high school or reaches the age twenty is the newest threat of growing military domination of this country. Universal military service as reported in the October 27th issue of U. S. NEWS is sponsored by Senator Lyndon Johnson (Dem., Tex.), chairman of the preparedness sub-committee of the Senate Armed Service Committee.

Under UMS even men with one leg would be drafted either for army service such as the quartermaster corps or technical training in war production. Marriage, dependents, etc., would not qualify men for exemption. UMS would take the place of UMT.

Universal Military Training

Universal military training is still a strong possibility unless the universal military service program is voted. UMT is slated to come up in Congress in January or soon thereafter. Raymond Wilson, executive secretary of the Friends Committee on National Legislation, reports that there are not now enough votes in Congress to defeat UMT if it comes up for vote.

The UMT bill which President Truman prevented coming to a vote this fall provided military training for all youths but under civilian law without membership in the regular armed forces. This bill required six months training with several alternatives at the end of that period, all of which meant considerable more time under government direction. This bill provided no exemptions for conscientious objectors other than training for non-combatant service.

Selective Service

Irrespective of UMT or UMS it is evident that selective service will be calling more men with a tightening of regulations and perhaps a change in age groups. General Hershey, Director of Selective Service, seems to be opposed at the present time to raising the age limit of 26 set by the Selective Service Act of 1948. However, it is extremely likely that some change will be made to enable the drafting of men before they are 19. Also, many 4F's are apt to be reclassified and made available for army duty.

As selective service pressures increase with the calling of more men, the present deferred status given conscientious objectors is apt to be eliminated and some form of government sponsored civilian alternative service demanded.

Puerto Rican Prosecutions Continue

Antonio Filardi-Guzman, 19-year-old Puerto Rican student, has just received a five year sentence for refusal to register for the Selective Service Act. Other Puerto Ricans have been convicted for non-registration, but previous sentences have been for one or two years.

The Puerto Rican non-registrants are almost exclusively political objectors who feel that they are not a part of the United States and have no duty to enter the armed forces of the United States.

NEW NATURALIZATION LAW

The legal status of alien pacifists seeking to become American citizens has been further clarified by a provision buried in the McCarran Act, passed by Congress last summer. This so-called "anti-subversive" legislation deals extensively with immigration and naturalization matters, mostly as they concern members of communist of "front" groups.

To the standard oath to support the constitution which applicants for citizenship must take, section 29 of the McCarran Act adds the pledge that "I will bear arms on behalf of the United States or perform non-combatant service in the armed forces of the United States when required by law".

This is qualified, however, in the case of an applicant who "by clear and convincing evidence . . . can show to the satisfaction of the naturalization court that he is opposed to the bearing of arms or the performance of non-combatant service in the Armed Forces of the United States by reason of religious training and belief". Such applicants can take the old oath without the requirement that they will bear arms.

This gives a Congressional sanction to the interpretation of the oath given earlier this year by the U. S. Supreme Court, when it reversed lower courts and admitted Quaker pacifist Martin Cohnstaedt to citizenship. The Cohnstaedt case had extended a 1946 Supreme Court ruling admitting to citizenship a Seventh-Day Adventist opposed only to combatant, but not to non-combatant service. Before 1946 no alien pacifist of any kind could become an American citizen.

The McCarran Act provision is unfortunately limited to conscientious objectors "by reason of religious training and belief", thus eliminating political objectors and leaving the status of philosophical and humanitarian C. O.'s very uncertain. It is significant, however, that unlike the Selective Service Act of 1948, Congress has added no definition to "religious training and belief" requiring belief in a "supreme being". There has still been no decisive opinion defining "religious training and belief"; in the most important World War II cases, two different Circuit Courts of Appeal gave widely differing interpretations of the word "religious". One said it meant belief in deity, the other that it was "a response of the individual to an inward mentor, call it conscience or God . . ." The Supreme Court did not resolve this conflict, and it is probable that still another pacifist citizenship case will have to be taken up in the courts to establish the legal limits of "religious training and belief".

PLEASE KEEP US INFORMED

The CCCO would appreciate it if all men arrested for selective service violations would keep us informed as to their status. The CCCO attempts to keep an accurate, up to date record of all cases of conscientious objectors being prosecuted by the courts. This record is often incomplete, because we have not been furnished with needed information.

GARA DECISION

(Continued from page 1)

uals which might vitiate the right. But Congress is also prohibited by the Constitution from infringing the individual's free exercise of religion or his right of free speech. Here is a dilemma which is as old as our government, and Mr. Gara's case merely highlights it again.

"So far as free speech goes there is always Justice Holmes's formula of 'clear and present danger', enunciated in the Schenck case. The Schenck case involved persons who urged resistance to the draft in World War I and the court then found unanimously that such urging went beyond the protection of the Amendment in its threat to the national security.

"The Gara case is parallel, but it is far from certain that counseling draft resistance in the peaceful spring of 1949 raised the same perils as it would have done in the middle of actual war. Justice Holmes himself made that distinction. 'It is,' he said, 'matter of proximity and degrees. When a nation is at war many things that might be said in time of peace are such a hindrance to its efforts that their utterance will not be endured'.

"And there was no religious issue in the Schenck case. Freedom of religion, like freedom of speech, obviously has its practical limits. But in a case where the harmful effects of its exercise are clearly moot, as in Gara's interposition with his already determined friend, one would expect the benefit of the doubt to go to the individual".

Effect of Decision

This decision of the court means that it is illegal to counsel any person to stand by his convictions, whether the basis of the convictions be religious or otherwise, if those conscientious convictions are in conflict with the Selective Service Act of 1948. Results of the counseling are immaterial. If anyone wishes to discuss the draft problems in a legal manner with those involved he must counsel strict obedience to the selective service law, irrespective of conscience, or face a prison sentence, if any district attorney wishes to prosecute. It is extremely unlikely that more than an occasional prosecution will result, but the possibility and legal threat will be present.

This situation can be changed by Congressional removal of the provisions of the Selective Service Act which make supporting civil disobedience a crime, or it can be changed by court reversal as more cases are carried to the Supreme Court.

Pacifists Stand Pat

Organizations such as the Society of Friends, Fellowship of Reconciliation, War Resisters League, and Peacemakers which have supported non-registrants and other conscientious objectors are not expected to change their counseling policies as a result of the Supreme Court decision.

A called conference of Friends met at Richmond, Indiana October 26-28, to consider how to make a positive witness for peace in today's world. In a summary of the conference findings a statement was included which read, "Events of the past two years cause us to reaffirm the Richmond Advices of July, 1948, and to urge that they be more faithfully carried out by Friends".

This statement was approved after the Supreme Court decision had been released to the public and commented

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THE COURT REPORTER

Because prosecutions dropped off to almost nothing in the first half of 1950, there has been no edition of the Court Reporter since February, 1950. Since that time, one man has been sentenced:

2-27-50 Robert Michener, 1 year and 1 day,
Wichita, Kansas, Judge D. C. Hill

The convictions of the following men were affirmed on appeal when the United States Supreme Court denied petitions for certiorari on 5-29-50 and 6-5-50: Charles Frantz, Richard Shufflebarger, William Wildman, Francis Henderson and Robert Wixom. Franz, Shufflebarger, and Wildman served their three month prison sentences during the summer. Wixom began serving his one year and one day sentence on 6-29-50, and as we go to press his application for parole from the Federal Prison, Springfield, Mo., is pending. Henderson had served his sentence while his appeal was pending.

The following convictions have been affirmed by Circuit Courts of Appeal, and petitions for certiorari to the United States Supreme Court are pending: Robert Richter, Robert Cannon, Robert Michener.

Arrests

The following men have been arrested since the last issue of the Court Reporter:

T. Vail Palmer—Non-registrant. Pled guilty October 16th in Philadelphia. Date for sentencing has not been set.

Donald Fisk—Non-registrant. Seattle, Washington. Arrested and released on bond. Trial date not set.

Robert Hess—Student, Manchester College in Indiana. Registered and received 4-E classification. Returned draft card. Arrested for refusal to carry draft card. Released on bond and is waiting trial.

Arthur Morgan III—Ohio non-registrant. Arrested July 24th. Registered by "automatic" process by draft board clerk when questioned by officers who had taken him into custody. Released without charges being filed.

Donald Hawkinson—Non-registrant. Augustana seminary student at Rock Island, Illinois. Pled guilty March 7th and released on bond pending probation officer investigation. No further word of action had been received by CCCO since March 23rd.

Carl Kime—Non-registrant. Automatically registered by United States Attorney. Arrested for refusal to carry draft card January 6, 1950. Found guilty in October and waiting sentence at our latest information.

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WANT A 4-E?

CONSCIENTIOUS OBJECTORS UNDER SELECTIVE SERVICE, a 44-page booklet giving full information on the legal status of C. O.'s; how to apply for classification as a C. O., how to conduct an appeal, etc. Price 25c, 5 for \$1.00, postpaid.

or "INSIDE" INFORMATION

PRISON AND COURT MANUAL FOR C. O.'S. Designed for those who may face imprisonment. It describes the course of criminal prosecution, prison life, probation and parole, etc. Price 25c, postpaid.

ORDER FROM CCCO

GARA DECISION

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on at the conference of Friends. The Richmond Adverses of July, 1948, said in part,

"Friends are urged:

"1. To support Young Friends and others who express their opposition to conscription either by non-registration, or by registration as conscientious objectors. We warmly approve civil disobedience under Divine Compulsion as an honorable testimony fully in keeping with the history and practices of Friends".

A WORD OF ADVICE

After hearing of the Gara decision a non-registrant sent us an interesting item. In a private conversation with the District Attorney after his trial he was told by the D. A., "You stick to what you believe, son, you stick to it if you think you're right".

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